

Marginal Risk Sites

This policy is promulgated to further the Department of Environmental Management's goals of protecting environmental quality and public health while promoting efficiency and accountability. Implementation of this policy will streamline the way DEM reviews projects that do not pose significant environmental or human health risks. Resources that are currently used to review these "marginal risk sites" will be spent in reviewing and cleaning up sites that have more significant environmental impact. In addition, DEM staff often spends considerable time and effort in reviewing submissions that are incomplete or do not provide sufficient information to allow DEM to approve the submittal. Implementation of this policy will improve the quality of submissions, clarify the requirements for approval of remedial actions on "marginal risk sites", and reduce the review time.

This policy establishes review time guidelines for "marginal risk sites". The policy applies to sites that are located in a GB and GA/GAA groundwater aquifers. It also encourages the removal of waste material and sets information requirements for the Site Investigation Report. Presumptive remedies that can be implemented are also identified. DEM will endeavor to review applications that adequately address these requirements within 42 days. However, this guideline for DEM review factors in a public notice requirement. If there is substantial public comment on the proposal, DEM may not be able to meet this review time guideline.

Review guidelines are predicated on DEM receiving complete submissions that are of sufficient quality to review. If these submissions do not address all the elements of the policy, DEM will reject the submission as a "marginal risk site" and will evaluate it in the normal process where there are no firm time review guidelines or presumptive remedies.

The following criteria below outline what are the accepted site conditions and commitments for performing parties submitting a "Marginal Risk Site" pursuant to the Remediation Regulations for review and approval. The criteria have been broken down into two categories:

- A. Sites within a defined GB groundwater aquifer
- B. Sites within a defined GA/GAA where the Performing Party has committed in writing to the Department to meet all Method 1 Residential Direct Exposure Criteria for surface soils meet all applicable Leachability Criteria and meet all the applicable Groundwater Objectives.

A. Sites within a GB groundwater aquifer

The Performing party must notify the Department, identify the submittal as a "marginal risk site" request, and submit a Site Investigation Report (SIR) that documents in sufficient detail that:

- The SIR is complete and adequately addresses all of the requirements of Section 7 of the Remediation Regulations. At a minimum, the site investigation must have adequately characterized groundwater and soil conditions throughout the site, including an evaluation of upgradient and downgradient property line conditions and in areas of recognized environmental concerns. Further, the analytical testing program must consider analytes associated with known or suspected releases, and hazardous materials for which applicable Method 1 criteria exist.

- The site is in a GB aquifer.
- The site is not within a 100 year flood plain
- The release is not in contact with the water table (including seasonal fluctuations) and does not have the potential to become in contact with the water table
- Analytical data indicating that any detected concentrations in groundwater are less than 50% of the Method 1 GB groundwater criteria
- There are no Method 1 GB Leachability exceedances for soils
- Groundwater sampling has been performed for all substances that are found in any soil sample that is 50%, or above, the UCL. The groundwater sampling results must show no net increase in concentration across the site
- No soil sample exceeds the UCL
- The soil demonstrating the highest total concentrations has been tested for inorganics (metals) TCLP/SPLP. All results must be below hazardous levels
- The first bail of all onsite groundwater well(s) has been evaluated for sheens, and that there is no sheen or floater contamination present on the water table.
- The property is currently non-residential use and shall remain non-residential use by agreeing to record an ELUR.
- There are no known public concerns or public interest.
- There is no actual or potential impact to environmental sensitive receptors.
- The Public Notice to abutters has been performed.

Should all of the abovementioned criteria be met and the Department determines that the SIR is complete; the Department will issue a Remedial Decision Letter expeditiously. The following are presumptive remedies that can be presented in the notification or submitted after the RDL is issued.

1. Capping- pre-approved capping alternatives are as follows:
 - a. 2 foot clean soil cap with ELUR
 - b. 6" clean soil cap with 4 inches of asphalt pavement (minimum) with ELUR
 - c. 1 foot of clean soil over a Geofabric material with minimum puncture strength of 120 lbs, and burst strength of 400 psi with ELUR
2. Removal of release-
 - a. Removal of all jurisdictional waste materials with confirmation sampling.
3. After the public notice and submittal of the RAWP, the Department will expeditiously issue a Remedial Approval Letter

B. Removal of All Jurisdictional Material within a GA/GAA groundwater aquifer areas

1. Should the Department receive a written commitment with the complete SIR from a Performing Party that includes a plan to completely remove all jurisdictional media and achieve the Method 1 Residential Direct Exposure criteria and the applicable leachability criteria for subsurface soils, the Department will issue a Remedial Decision Letter (RDL) expeditiously.
2. The Remedial Decision Letter will indicate that public notice shall occur.
3. The written commitment may include a Remedial Action Work Plan (RAWP) that describes the proposed confirmation sampling, or this may be submitted after the issuance of the RDL.
4. Pre-approved confirmation sampling is as follows (NOTE: all samples must be grab samples, no composite sampling will be accepted, and samples shall be biased towards previously known areas of contamination):
 - a. For excavations with no side greater than 25 feet and no deeper than 5 feet; 1 sample per side and 1 bottom (minimum of 5 samples)
 - b. For excavations with any side walls greater than 25 feet and no deeper than 5 feet; 1 per every 25 feet of side wall and 1 bottom sample every 625 square feet
 - c. For excavations with any sidewalls greater than 25 feet and deeper than 5 feet; 1 sample per 25 feet of sidewall and 1 sample every 5-foot of wall height and 1 bottom sample every 625 square feet.
5. After the public notice and submittal of the RAWP, the Department will expeditiously issue a Remedial Approval Letter.

In both A and B above, the Department will require a Remedial Action Summary Report at the conclusion of the remedy. After review and approval of this Remedial Action Summary Report the Department will issue a Letter of Compliance for the site.

C. Review Schedule

Should the Department determine that the Marginal Risk Policy is applicable to the site, it will endeavor to complete an expeditious review and approval of the application in accordance with the follow schedule.

Date	Event/Milestone
Day 1	Notification of Release/Application for Marginal Risk Sites status
Day 30 (Or sooner)	Program Letter – approval of Marginal Risk Sites status – SIR complete - initiate public notice
Day 37	Public notice period ends
Day 42	Remedial Approval Letter

Note that the receipt of substantive comments from the public may interrupt this anticipate review and approval schedule. The applicant will be so notified in the event of this circumstance.

Marginal Risk Sites - Submission Checklist

This checklist shall be completed and accompany each “Marginal Risk Site” submission along with the Remedial Approval fee, and information required below. The criteria have been broken down into two categories:

- A. Sites within a defined GB groundwater aquifer.
- B. Sites within a defined GA/GAA where the Performing Party has committed in writing to the Department to meet all Method 1 Residential Direct Exposure Criteria for surface, soils meet all applicable Leachability Criteria, and meet all the applicable Groundwater Objectives.

A. Sites within a GB groundwater aquifer

Submission Verification*	Submission Section/Page Reference**	Requirement
		The SIR is complete and adequately addresses all of the requirements of Section 7 of the Remediation Regulations. (SIR checklist completed with attached SIR, and fee).
		The site is in a GB aquifer (map included).
		The site is not within a 100 year flood plain (map included)
		The release is not in contact with the water table (including seasonal fluctuations)
		The release does not have the potential to become in contact with the water table (explanation included in report).
		All analytical data for detected concentrations in groundwater are less than 50% of the Method 1 GB groundwater criteria
		There are no Method 1 GB Leachability exceedances for soils
		Groundwater sampling has been performed for all substances that are found in any soil sample that is 50%, or above, the UCL. The groundwater sampling results must show no net increase in concentration across the site
		No soil sample exceeds the UCL
		The soil demonstrating the highest total concentrations has been tested for inorganics (metals) TCLP/SPLP. All results are below hazardous levels ***
		The first bail of all onsite groundwater well(s) has been evaluated for sheens, and there is no sheen or floater contamination present on the water table.
		The property is currently non-residential use and shall remain non-residential use by agreeing to record an ELUR. (This requirement may be waived if complete removal remedy selected)
		There is no actual or potential impact to environmentally sensitive receptors (explanation of closest environmental receptors is included in report).
		The Public Notice to abutters has been performed, and there are no known public concerns or public interest.

Presumptive Remedies:

		The presumptive remedy identified below has been selected, & additional information is included in the referenced section of the submission (i.e. locations, details, etc): <ul style="list-style-type: none"> • 2 foot clean soil cap with ELUR • 6” clean soil cap w/ 4” of asphalt pavement (minimum) w/ ELUR • 1 ft clean soil over Geofabric material with minimum puncture strength of 120 lbs, and burst strength of 400 psi w/ ELUR (details included) • Written commitment for removal of all jurisdictional waste materials w/ pre-approved confirmation sampling consistent w/ policy.
	N/A	A presumptive remedy shall be selected after the Remedial Decision Letter (RDL) is issued.
		An alternative remedy is proposed that makes use of <u>existing</u> 4” (min.) asphalt and/or concrete, substantially equivalent to the presumptive remedies above (details provided).

B. Complete Removal of Jurisdictional Material in GA/GAA Aquifers

		The SIR is complete and adequately addresses all of the requirements of Section 7 of the Remediation Regulations. (SIR checklist completed with attached SIR).
		The site is in a GA/GAA aquifer (map included)
		The release is not in contact with the water table (including seasonal fluctuations)
		The release does not have the potential to become in contact with the water table prior to complete removal (explanation included in report).
		All analytical data for detected concentrations in groundwater are less than the applicable Method 1 groundwater criteria.
		There is no actual or potential impact to environmental sensitive receptors (explanation of closest environmental receptors is included in report).
		A <u>written commitment</u> from a Performing Party is included with a plan to completely remove all jurisdictional media and achieve the Method 1 Residential Direct Exposure criteria and the applicable leachability criteria for subsurface soils.
		Public notice shall occur upon issuance of the RDL.
		The written commitment includes a Remedial Action Work Plan (RAWP) with pre-approved confirmation sampling consistent with the policy.
	N/A	A RAWP w/ confirmatory sampling shall be submitted after issuance of the RDL.
	N/A	A Remedial Action Summary Report shall be submitted at the conclusion of the remedy for DEM review and approval, and for issuance of a Letter of Compliance for the site.

* Submission Verification – **For RI DEM use only** – RI DEM review staff shall verify by checkmark or 'X' that the submission contains information adequate to address each stated requirement. Failure to submit all adequate information shall result in rejection of the submission as a "marginal risk site".

** Submission Section/Page. Reference - Cross-reference the specific sections or pages in the submission that provides the detailed information that addresses each stated requirement. Failure to include cross-references may delay review and approval.

*** TCLP/SPLP testing is not required if all analytical results for total metals are below 20 times the hazardous waste criteria.